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6 Attorneys for Plaintiffs, ASIS INTERNET SERVICES
and JOEL HOUSEHOLDER

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

10 **ASIS INTERNET SERVICES, a California**
11 **corporation, and JOEL HOUSEHOLDER, dba**
12 **KNEELAND ENGINEERING, dba FOGGY.NET,**

13 **Plaintiffs,**

14 **vs.**

15 **SUSCRIBERBASE INC., a South Carolina**
16 **Corporation, SUSCRIBERBASE HOLDINGS**
17 **INC., a South Carolina Corporation,**
18 **CONSUMER RESEARCH CORPORATION INC.,**
 a South Carolina Corporation, et al.,

Defendants.

CASE NO: CV 09-3503 SC

REPLY TO DEFENDANTS'
 OPPOSITION TO DISMISSAL

DATE: September 17, 2010

TIME: 10:00 A.M.

CTRM: 1, 17TH FLOOR

REPLY TO DEFENDANTS' OPPOSITION

21 It is unclear what Defendants' attorneys are trying to accomplish in their opposition
22 papers. The Defendants appear to be arguing that a basically defunct corporation, ASIS
23 Internet Services, Inc., be kept in this lawsuit even though it has no resources to prosecute the
24 matter. Defendants appear to be arguing, completely against their own interests, that ASIS be
25 kept in the suit because it owes Defendants' attorneys fees and costs under another suit, and
26 Defendants' attorneys will not be able to collect if Plaintiff ASIS does not pursue this case
27 against their client.

28 ASIS is unable to prosecute the case, and begs leave of the court to retire. The

1 beneficiary of this issue is Defendants, who will not have to defend themselves against the
 2 charges brought by Plaintiff ASIS INTERNET SERVICES, INC.

3 The decisions by Judge Spero regarding the fees and costs of the ***ASIS v Optin Global***
 4 case had not been issued when this case was filed in July 2009. See Complaint, Docket 1;
 5 also see ***Asis Internet Services v. Optin Global, Inc***, Slip Copy, 2010 WL 2035327 (N.D.
 6 Cal. May 2010), a courtesy copy of which is provided to the Court. There was no legal
 7 precedent for a federal court to assess fees in excess of \$800,000 against a plaintiff in a very
 8 close decision concerning standing, for bringing an action where the plaintiff was provided
 9 standing by the U.S. Congress.

10 Defendant now argues that this case is similar. However, the matter in ***Asis Internet***
 11 ***Services v. Optin Global, Inc***, revolved around the definition of adverse affect (to establish
 12 standing) required for an ISP bringing an action in a **CAN SPAM Act of 2003** suit and whether
 13 there was sufficient evidence to prove the defendants were the advertisers in the subject
 14 emails. See ***ASIS Internet Services v. Optin Global, Inc.***, Not Reported in F.Supp.2d, 2008
 15 WL 1902217 (N.D. Cal. 2008), a courtesy copy of which is provided to the Court.

16 This case is based entirely on **California Business and Professions Code §17529.5**.
 17 The standing issue is not applicable in any manner, and this Court has already ruled that
 18 Plaintiff has standing. The identification of the advertiser is not at issue, as the subject emails
 19 all contain statements that Defendants are the advertisers and this Court has already ruled that
 20 the preliminary evidence indicates a plausible argument that Defendants knew the subject
 21 emails were sent as advertisements on their behalf. See ***Asis Internet Services v.***
Subscriberbase Inc., Slip Copy, 2010 WL 1267763 at *6 and *7 (N.D. Cal. 2010).

23 Plaintiff would continue to pursue this case if it had that option. However, it does not. It
 24 had to sell all of its assets to a competitive firm who is maintaining services for its prior
 25 customers. All remaining funds have been seized by Defendants' attorneys. Defendants'
 26 attorneys are well aware of these facts.

27 Plaintiff has no idea why Defendants are bringing up the issue of dismissal with
 28 prejudice. This was Plaintiff's intent and has no objection to dismissal with prejudice.

1 Therefore, Plaintiff requests the Court dismiss ASIS against all parties with prejudice.
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4 **SINGLETON LAW GROUP**
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6 Dated: September 1, 2010 /s/ Richard E. Grabowski
7 Jason K. Singleton
8 Richard E. Grabowski, Attorneys for Plaintiffs,
9 **ASIS INTERNET SERVICES and JOEL**
10 **HOUSEHOLDER, dba KNEELAND**
11 **ENGINEERING, dba FOGGY.NET**
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